

“(3) One of the remaining States should be mainly rural and among the least populous States.

“(4) One of the remaining States should have less than average drug use according to reliable surveys.

“(d) LENGTH OF PROGRAM.—The pilot program authorized by this section shall continue for a period of 1 year. The Secretary shall consider alternative methodologies for implementing a system of random testing of such individuals.

“(e) REQUIREMENTS FOR STATE PARTICIPATION.—

“(1) PERSONS TO BE TESTED.—Each State participating in the test program shall test for controlled substances in accordance with paragraph (2) individuals who—

“(A) are applicants seeking the privilege to drive, and

“(B) have never been issued a driver's license by any State.

“(2) TYPES OF TESTING.—To deter drug use and promote highway safety, all individuals described in paragraph (1) shall be subject to random testing—

“(A) prior to issuance of driver's licenses, and

“(B) during the first year following the date of issuance of such licenses.

“(3) DENIAL OF DRIVING PRIVILEGES.—Each State participating in the test program shall deny an individual driving privileges if drug testing required by paragraph (1) indicates that such individual has used illicit drugs, with such denial lasting for a period of at least 1 year following such test or subsequent confirmatory test.

“(4) REINSTITUTION OF DRIVING PRIVILEGES.—The program described in paragraph (3) may allow for reinstitution of driving privileges after a period of 3 months if such reinstitution is accompanied by a requirement that the individual be available for a period of 9 months for drug testing on a regular basis. If any such test indicates that the individual has used illicit drugs, then driving privileges must be denied for 1 year following such test or confirmatory test.

“(f) REGULATIONS.—The Secretary may issue regulations to assist States in implementing the programs described in subsection (e) and to grant temporary exceptions in appropriate circumstances.

“(g) REPORT.—Not later than 30 months after the date of the enactment of this Act [Nov. 18, 1988], the Secretary shall prepare and transmit to Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for random testing of such operators of motor vehicles.

“(h) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this test program, there is authorized to be appropriated \$5,000,000 for fiscal year 1990.

“(i) DEFINITIONS.—For purposes of this section—

“(1) CONTROLLED SUBSTANCE.—The term ‘controlled substance’ means any controlled substance as defined under section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(3) STATE.—The term ‘State’ has the meaning such term has when used in chapter 1 of title 23, United States Code.”

DRUG AND HIGHWAY SAFETY STUDY AND REPORT

Pub. L. 99-570, title III, §3402, Oct. 27, 1986, 100 Stat. 3207-102, directed Secretary of Transportation to conduct a study to determine relationship between usage of controlled substances and highway safety and, not later than one year after Oct. 27, 1986, submit to Congress a report on results of study.

NATIONAL DRIVER REGISTER STUDY

Pub. L. 95-599, title II, §204, Nov. 6, 1978, 92 Stat. 2729, directed Secretary of Transportation to make a full

and complete investigation and study of the need for, and, if necessary, ways and means to establish, a national driver register to assist States in electronically exchanging information regarding motor vehicle driving records of certain individuals, with Secretary to issue a final report to Congress not later than one year after Nov. 6, 1978.

DETECTION AND PREVENTION OF MARIJUANA AND OTHER DRUG USE BY OPERATORS OF MOTOR VEHICLES

Pub. L. 95-599, title II, §212, Nov. 6, 1978, 92 Stat. 2734, directed Secretary to report to Congress not later than Dec. 31, 1979, concerning the progress of efforts to detect and prevent marijuana and drug use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana and drugs by motor vehicle operators, and a description of Federal and State projects undertaken into methods of detection and prevention.

FORM AND USE OF REPORTS OF HIGHWAY TRAFFIC ACCIDENTS OR RESEARCH PROJECTS IN COURT; AVAILABILITY TO PUBLIC

Pub. L. 89-564, title I, §106, Sept. 9, 1966, 80 Stat. 735, as amended by Pub. L. 105-178, title V, §5119(f), June 9, 1998, 112 Stat. 452, provided that: “All facts contained in any report of any Federal department or agency or any officer, employee, or agent thereof, relating to any highway traffic accident or the investigation thereof conducted pursuant to chapter 4 of title 23 of the United States Code shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident, and any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigation. Any such report shall be made available to the public in a manner which does not identify individuals. All completed reports on research projects, demonstration projects, and other related activities conducted under section 403 and chapter 5 of title 23, United States Code, shall be made available to the public in a manner which does not identify individuals.”

APPROPRIATIONS AUTHORIZATIONS

Section 208(b) of Pub. L. 93-87 provided that: “There is authorized to be appropriated to carry out the amendments made by this section [amending this section] by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, the sum of \$10,000,000 per fiscal year for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976.”

Section 226(b) of Pub. L. 93-87 provided that: “For the purpose of carrying out the amendment made by subsection (a) of this section [amending this section], there is authorized to be appropriated \$10,000,000 out of the Highway Trust Fund.”

AUTHORIZATION OF ADDITIONAL APPROPRIATIONS

Authorization of appropriation of additional sum of \$10,000,000 for the fiscal year ending June 30, 1967, \$20,000,000 for the fiscal year ending June 30, 1968, and \$25,000,000 for the fiscal year ending June 30, 1969, for the purpose of carrying out this section and section 307(a) of this title, see section 105 of Pub. L. 89-564, set out as a note under section 307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 110, 402 of this title.

§ 404. National Highway Safety Advisory Committee

(a)(1) There is established in the Department of Transportation a National Highway Safety Advisory Committee, composed of the Secretary or an officer of the Department appointed by him, the Federal Highway Administrator, the

National Highway Traffic Safety Administrator, and thirty-five members appointed by the President, no more than four of whom shall be Federal officers or employees. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State and local governments, including State legislatures, of public and private interests contributing to, affected by, or concerned with highway safety, including the national organizations of passenger car, bus, and truck owners, and of other public and private agencies, organizations, or groups demonstrating an active interest in highway safety, as well as research scientists and other individuals who are expert in this field.

(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of members first taking office after the date of enactment of this section shall expire as follows: Twelve at the end of one year after the date such committee members are appointed by the President, twelve at the end of two years after the date such committee members are appointed by the President, and eleven at the end of three years after the date such committee members are appointed, as designated by the President at the time of appointment, and (iii) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the President who has served a three-year term, other than Federal officers or employees, shall be eligible for reappointment within one year following the end of his preceding term.

(B) Members of the Committee who are not officers or employees of the United States shall, while attending meetings or conferences of such Committee or otherwise engaged in the business of such Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding \$100 per diem, including travel-time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The National Highway Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department in the field of highway safety. The Committee is authorized (1) to review research projects or programs submitted to or recommended by it in the field of highway safety and recommend to the Secretary, for prosecution under this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to

the cause and prevention of highway accidents; and (2) to review, prior to issuance, standards proposed to be issued by order of the Secretary under the provisions of section 402(a) of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The National Highway Safety Advisory Committee shall meet from time to time as the Secretary shall direct, but at least once each year.

(d) The Secretary shall provide to the National Highway Safety Committee from among the personnel and facilities of the Department of Commerce¹ such staff and facilities as are necessary to carry out the functions of such Committee.

(Added Pub. L. 89-564, title I, §101, Sept. 9, 1966, 80 Stat. 733; amended Pub. L. 90-150, Nov. 24, 1967, 81 Stat. 507; Pub. L. 93-87, title II, §223, Aug. 13, 1973, 87 Stat. 292; Pub. L. 94-280, title II, §209, May 5, 1976, 90 Stat. 455.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(2)(A), is Sept. 9, 1966.

Section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2), referred to in subsec. (a)(2)(B), was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 632. Section 7(b) of Pub. L. 89-554 provided that references to sections of former Title 5, Executive Departments and Government Officers and Employees, are to be deemed to be references to corresponding provisions of Title 5, Government Organization and Employees. Provisions similar to section 73b-2 of former title 5 are now contained in section 5703 of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-280 substituted provision for selection by the Secretary of the Chairman of the Committee from among the Committee members for prior provision making the Secretary or an officer of the Department appointed by him the Chairman of the Committee.

1973—Subsec. (a)(1). Pub. L. 93-87 added the National Highway Traffic Safety Administrator to the membership of the National Highway Safety Advisory Committee.

1967—Subsec. (a)(1). Pub. L. 90-150, §1(1), substituted "Department of Transportation" for "Department of Commerce", increased number of Committee appointees from twenty-nine to thirty-five, and provided for selection of members from representatives of national organizations of passenger car, bus, and truck owners.

Subsec. (a)(2)(A). Pub. L. 90-150, §1(2), substituted provisions for expirations of term of office of initial appointees one, two, and three years after date of appointment for twelve, twelve, and eleven members, respectively, for former provisions for such expiration one, two, and three years following enactment date of Sept. 9, 1966, for ten, ten, and nine members, respectively, and prohibited reappointment within one year after end of preceding term of member serving a three-year term of office.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of

¹ So in original. Probably should be "Transportation".

the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 405. Occupant protection incentive grants

(a) GENERAL AUTHORITY.—

(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants under this section to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. Such grants may be used by recipient States only to implement and enforce, as appropriate, such programs.

(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for programs described in paragraph (1) at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

(3) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

(4) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

(C) in each of the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

(b) GRANT ELIGIBILITY.—A State shall become eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary at least 4 of the following:

(1) SAFETY BELT USE LAW.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle (and, beginning in fiscal year 2001, in any seat in the vehicle) does not have a safety belt properly secured about the individual's body.

(2) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of the safety belt use law of the State.

(3) MINIMUM FINE OR PENALTY POINTS.—The State imposes a minimum fine or provides for the imposition of penalty points against the driver's license of an individual—

(A) for a violation of the safety belt use law of the State; and

(B) for a violation of the child passenger protection law of the State.

(4) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State has implemented a statewide special traffic enforcement program for occupant protection that emphasizes publicity for the program.

(5) CHILD PASSENGER PROTECTION EDUCATION PROGRAM.—The State has implemented a statewide comprehensive child passenger protection education program that includes education programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems.

(6) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

(c) GRANT AMOUNTS.—The amount of a grant for which a State qualifies under this section for a fiscal year shall equal up to 25 percent of the amount apportioned to the State for fiscal year 1997 under section 402.

(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) CHILD SAFETY SEAT.—The term “child safety seat” means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

(2) MOTOR VEHICLE.—The term “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(3) MULTIPURPOSE PASSENGER VEHICLE.—The term “multipurpose passenger vehicle” means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

(4) PASSENGER CAR.—The term “passenger car” means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

(5) PASSENGER MOTOR VEHICLE.—The term “passenger motor vehicle” means a passenger car or a multipurpose passenger motor vehicle.

(6) SAFETY BELT.—The term “safety belt” means—

(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.